

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 286**

5 (Senators Ferns, Trump, D. Hall, Blair, Boley, Gaunch,
6 Leonhardt, Mullins and Karnes, *original sponsors*)

7 _____
8 [Passed March 14, 2015; in effect ninety days from passage.]
9 _____

10
11
12 AN ACT to amend and reenact §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as
13 amended, all relating generally to mandatory immunizations; setting forth immunization
14 dosage levels; adding required immunizations; providing medical and religious exemptions
15 from mandatory immunizations for school children; requiring parents and guardians to assert
16 their beliefs in affidavit; providing that affidavit be provided before exemption applies;
17 allowing removal of students who are not immunized from school in times of emergency or
18 epidemic; granting legislative rule-making authority to the Secretary of the Department of
19 Health and Human Resources to add or delete diseases for which vaccines are required for
20 school attendance, to develop necessary forms and to create process for reviewing any
21 verification of affidavits for completeness; nullifying an interpretive rule and any action
22 taken pursuant to the interpretive rule; modifying the Immunization Advisory Committee;
23 and establishing a chair of the committee.

24 *Be it enacted by the Legislature of West Virginia:*

25 That §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, be amended and
26 reenacted, all to read as follows:

27 **ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER**

1 whooping cough, or he or she may give the certificate to any person or child whom he or she knows
2 to have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria,
3 polio, rubella, tetanus and whooping cough.

4 (h) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke
5 exemptions to the compulsory immunization requirements of this section, on a statewide basis, upon
6 sufficient medical evidence that immunization is contraindicated or there exists a specific precaution
7 to a particular vaccine.

8 (1) A request for an exemption to the compulsory immunization requirements of this section
9 must be accompanied by the certification of a licensed physician stating that the physical condition
10 of the child is such that immunization is contraindicated or there exists a specific precaution to a
11 particular vaccine.

12 (2) The commissioner is authorized to appoint and employ an Immunization Officer to make
13 determinations on request for an exemption to the compulsory immunization requirements of this
14 section, on a statewide basis, and delegate to the Immunization Officer the authority granted to the
15 commissioner by this subsection.

16 (3) A person appointed and employed as the Immunization Officer must be a physician
17 licensed under the laws of this state to practice medicine.

18 (4) The Immunization Officer's decision on a request for an exemption to the compulsory
19 immunization requirements of this section may be appealed to the State Health Officer.

20 (5) The final determination of the State Health Officer is subject to a right of appeal pursuant
21 to the provisions of article five, chapter twenty-nine a of this code.

22 (i) A physician who provides any person with a false certificate of immunization against
23 chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio,, rubella, tetanus and
24 whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25
25 nor more than \$100.

26 **§16-3-5. Distribution of free vaccine preventives of disease.**

27 (a) *Declaration of legislative findings and purpose.* -- The Legislature finds and declares that
28 early immunization for preventable diseases represents one of the most cost-effective means of

1 disease prevention. The savings which can be realized from immunization, compared to the cost of
2 health care necessary to treat the illness and lost productivity, are substantial. Immunization of
3 children at an early age serves as a preventive measure both in time and money and is essential to
4 maintain our children's health and well-being. The costs of childhood immunizations should not be
5 allowed to preclude the benefits available from a comprehensive, medically supervised child
6 immunization service.

7 (b) The Commissioner of the Bureau for Public Health shall acquire vaccine for the
8 prevention of polio, measles, meningitis, mumps, rubella, chickenpox, diphtheria, pertussis, tetanus,
9 hepatitis-b, haemophilus influenzae-b and other vaccine preventable diseases as considered necessary
10 or required by law and shall distribute the same, free of charge, in quantities he or she considers
11 necessary, to public and private providers, to be used by them for the benefit of citizens to check
12 contagions and control epidemics.

13 (c) The Commissioner of the Bureau for Public Health, through the immunization program,
14 has the responsibility to ensure the distribution, free of charge, of federally supplied vaccines to
15 public and private providers to be used to check contagions and control epidemics: *Provided*, That
16 the public and private providers may not make a charge for the vaccine itself when administering it
17 to a patient. The Commissioner of the Bureau for Public Health, through the immunization program,
18 shall keep an accurate record of any vaccine delivered as provided in this section.

19 (d) The commissioner is charged with establishing an Immunization Advisory Committee.
20 The advisory committee is to make recommendations on the distribution of vaccines acquired
21 pursuant to this section, advise the secretary on the changing needs and opportunities for
22 immunization from known diseases for all persons across their life span and track immunization
23 compliance in accordance with federal and state laws. Members of the Immunization Advisory
24 Committee shall be designated and appointed by the commissioner no later than July 1, 2015. The
25 advisory committee shall be comprised of representatives from the following groups: Public health
26 nursing, public health officers, primary health care providers, pediatricians, family practice
27 physicians, health care administrators, pharmacists, the Commissioner of the Bureau for Medical

1 Services, or his or her designee, the health insurance industry, the Director of the Public Employees
2 Insurance Agency, or his or her designee, the self-insured industry and a minimum of three
3 consumers. The state epidemiologist serves as an advisor to the committee. The commissioner, or
4 his or her designee, serves as the chair of the advisory committee. Members of the advisory
5 committee serve four-year terms.

6 (e) An advisory committee member may not participate in a matter involving specific parties
7 that will have a direct and predicable effect on their financial interest. An effect will not be direct
8 in instances where the chain of causation is attenuated or is contingent upon the occurrence of events
9 that are speculative.

10 (f) All health insurance policies and prepaid care policies issued in this state which provide
11 coverage for the children of the insured shall provide coverage for child immunization services to
12 include the cost of the vaccine, if incurred by the health care provider, and all costs of administration
13 from birth through age eighteen years. These services are exempt from any deductible, per-visit
14 charge and/or copayment provisions which may be in force in these policies or contracts. This
15 section does not exempt other health care services provided at the time of immunization from any
16 deductible or copayment provisions.

17 (g) Attending physicians, midwives, nurse practitioners, hospitals, birthing centers, clinics
18 and other appropriate health care providers shall provide parents of newborns and preschool age
19 children with information on the following immunizations: Diphtheria, polio, mumps, meningitis,
20 measles, rubella, tetanus, hepatitis-b, haemophilus influenzae-b, chickenpox and whooping cough.
21 This information should include the availability of free immunization services for children.